

## **THE MINUTES OF THE REGULAR MEETING OF APRIL 11, 2019**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, April 11, 2019, in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

Prior to the commencement of the regular meeting of the Commission, Mr. Wheatley announced that a training session had been scheduled for the Planning and Zoning Commission for the new IT devices. Ms. Cornwell explained how the new IT devices were to be utilized to enable the Commission to work more electronically in future meetings.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, Ms. Holly Wingate, Mr. J. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director of Planning & Zoning, Mr. Jamie Whitehouse – Planning & Zoning Manager, and Ms. Lauren DeVore – Planner III.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to approve the Agenda as submitted. Motion carried 5-0.

Motion by Ms. Wingate, seconded by Ms. Stevenson, and carried unanimously to approve the Minutes of the March 14, 2019 Planning and Zoning Commission meeting as revised. Motion carried 5-0.

### **OLD BUSINESS**

#### **2019-6 Zinszer Property – Estuary Development, LLC**

A cluster/ESDDOZ subdivision to divide 26.87 acres +/- into 34 single family lots to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County. The property is lying on at the end of Sea Spray Lane in the Estuary Subdivision off of Camp Barnes Road. Tax Parcel: 134-19.00-105.00 (portion of). Zoning District. AR-1 (Agricultural Residential District).

The Planning Commission discussed the application which has been deferred since March 28, 2019. Mr. Robertson outlined some of the conditions within the previous Estuary Subdivision approval from 2006, and the importance of similar conditions being mirrored in any potential approved, to ensure consistency.

Mr. Mears moved that the Commission grant Preliminary Approval for Subdivision 2019-6 for Zinszer Property – Estuary Development, LLC based upon the record made during the public hearing and for the following reasons:

1. The Applicant is seeking approval for a 34-lot cluster subdivision within the AR-1 Zone. It is essentially an expansion of The Estuary, and it will be subject to The Estuary's HOA and Covenants and will share amenities and roadways with The Estuary.
2. This expansion of The Estuary has been approved by at least 51% of the lot owners within The Estuary.

3. The Applicant is seeking clustered lots with a minimum area of 7,500 square feet, as permitted within Environmentally Sensitive Developing Area. The average lot size is approximately 9,600 square feet.
4. The proposed subdivision will have no more than 34 lots on 26.87 acres. This results in a density that is significantly less than the maximum density permitted in the AR-1 Zone. By adding these lots, The Estuary development will remain below 1.5 units per acre.
5. 61%, or approximately 16.4 acres of the site, will remain as open space.
6. This expansion of The Estuary will not have an adverse impact on the neighboring properties or area roadways. It is consistent with other residential development in the area.
7. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the applicant has favorably addressed the requirements of Section 99-9C of the Code.
8. The project will be served by central water and sewer.
9. The development complies with the Sussex County Comprehensive Plan as a low-density, single-family dwelling subdivision.
10. This preliminary approval is subject to the following:
  - A. There shall be no more than 34 lots within the subdivision.
  - B. The lot owners shall be members of The Estuary HOA responsible for the maintenance of streets, roads, buffers, stormwater management facilities, and other common areas.
  - C. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - D. The Applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be clearly shown on the Final Site Plan. Also, as stated by the Applicant, the Restrictive Covenants shall include a tree preservation covenant.
  - E. A forested or landscaped buffer of at least 30-feet in depth shall be installed along the perimeter of the project. Any wetlands within this buffer area shall remain undisturbed. This buffer area may include existing vegetation. The Final Site Plan shall contain a landscaped plan for these areas.
  - F. As proffered by the Applicant, a 50-foot buffer shall be provided along Brasure's Branch Tax Ditch.
  - G. As proffered by the Applicant, a 15-foot buffer shall be provided along all non-tidal wetlands. No lots shall include any wetlands.
  - H. As shown on the Preliminary Site Plan, sidewalks shall be installed on both sides of the streets in the site.
  - I. All recreational amenities in The Estuary shall be available for the use of homeowners within this expansion area.
  - J. The subdivision shall be served by a central sewer system.
  - K. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
  - L. The street design shall meet or exceed Sussex County standards.
  - M. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.

- N. Deliveries and construction shall only occur on the site between the hours of 8:00 am through 5:00 pm, Monday through Friday and 8:00 am through 2:00 pm, Saturdays.
- O. As required for The Estuary, the Restrictive Covenants and Final Site Plan for this subdivision may include the Agricultural Use Protection Notice and the Wetlands Notice. They shall also include a notice that hunting activities occur on neighboring and adjacent properties. They must prohibit the use of off-road, ATV-type vehicles on the property, other than by the Homeowners Association or its designee for maintenance.
- P. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
- Q. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to grant Preliminary Approval for the reasons and with conditions stated in the motion. Motion carried 4-0. Ms. Wingate abstained.

**C/U 2163 William H. McQueen, Jr.**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an event venue to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.6408 acres, more or less.** The property is lying on the north side of Broadkill Road (Route 16), approximately 670 ft. west of Reynolds Road. 911 Address: 26285 Broadkill Road, Milton. Tax Parcel: 235-15.00-4.01.

The Planning Commission discussed the application which has been deferred since March 28, 2019.

Mr. Hopkins moved that the Commission recommend denial of Conditional Use 2163 for William H. McQueen, Jr. for an event venue based upon the record made during the public hearing and for the following reasons:

1. This application seeks approval for weddings and similar events on a 1.6-acre property located along Route 16 outside of Milton.
2. There is no space on the site to accommodate the parking required by patrons of the proposed events.
3. The applicant has proposed off-site parking, including handicapped parking, across Route 16 from the site. No formal agreements or easements were introduced regarding the off-site parking.
4. The proposed off-site parking creates a dangerous situation. Route 16 is a Major Collector roadway with significant traffic at high speeds. This site is not located at an intersection, and there is nothing to ensure safe pedestrian crossings of this busy road. These dangers are made worse if patrons are leaving the event after dark.
5. Approving this application with uncertain and unsafe off-site parking does not promote the health, safety, and welfare of Sussex County or its residents and visitors.
6. For these reasons, my recommendation is for denial of this special event conditional use.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be denied for the reasons and conditions stated in the motion. Motion carried 5-0.

**C/U 2166 Deborah A. Townsend**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a professional office and business services and residence to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.58 acres, more or less.** The property is lying on the north side of Burbage Road, approximately 347 feet west of Roxana Road. 911 Address: 34745 Burbage Road, Frankford. Tax Parcel: 134-11.00-226.01.

The Planning Commission discussed the application which has been deferred since March 28, 2019.

Mr. Mears moved that the Commission recommend approval of Conditional Use 2166 for Deborah Townsend for a professional office, business services, and a residence based upon the record made during the public hearing and for the following reasons:

1. The proposed Conditional Use is consistent with other uses in this area. There are many Businesses, Commercial Zones, and Conditional Uses in the area, and the Applicant has stated that the area is no longer primarily residential in character.
2. The use as a professional office with business services in this location will benefit the health, safety, and welfare of present and future residents of Sussex County by providing such a use in a convenient location.
3. The applicant intends to utilize the existing structure on the property as an office. This is consistent with other small business uses in the area.
4. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.
5. No parties appeared in opposition to this application.
6. This recommendation is subject to the following conditions:
  - A. The use shall be limited to professional offices, business services, and a residence.
  - B. As stated by the applicant, the use shall occur within the existing structure that will be renovated by the Applicant, while maintaining its residential appearance.
  - C. The hours of operation shall be between 7:00 am and 9:00 pm, Monday through Friday, and 9:00 am until 5:00 pm on Saturdays. There shall not be any Sunday hours.
  - D. Any dumpsters shall be located to the rear of the property and screened from view of neighboring properties and roadways.
  - E. The Applicant shall comply with all DelDOT requirements concerning entrance, traffic, and roadway improvements.
  - F. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
  - G. One lighted sign shall be permitted on the property. The sign shall be no larger than 32 square feet per side.
  - H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons and conditions stated in the motion. Motion carried 5-0.

**C/Z 1868 Ronald Nanney**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 0.5588 acres, more or less.** The property is lying on the west side of Harbeson Road, approximately 0.21 mile north of Lewes-Georgetown Highway (Route 9). 911 Address: 18490 Harbeson Road, Milton. Tax Parcel: 235-30.00-10.02.

The Planning Commission discussed the application which has been deferred since March 28, 2019.

Ms. Stevenson moved that the Commission recommend denial of Change in Zone 1868 for Ronald Nanney for a change in zone from AR-1 to C-2 (Medium Commercial) based upon the record made during the public hearing and for the following reasons:

1. This applicant seeks to rezone a lot along Harbeson Road that is next to another property owned by the Applicant that is currently zoned C-1. However, this is the only commercially zoned property along this side of Harbeson Road.
2. The Applicant's adjacent property was rezoned to C-1 many years ago.
3. With the exception of the Applicant's 1.28-acre parcel that is Zoned C-1, the west side of Harbeson Road has remained AR-1 with low-density agricultural and residential uses. The only exception is a C-1 property across the road which has been in existence for decades and pre-dated the newer residential development in this area. Although zoned for C-1 use, the property is not currently used for commercial purposes.
4. The only commercial or business uses are located much nearer to the intersection of Harbeson Road and Route 9 where other businesses and commercial uses exist.
5. The Applicant did not create a sufficient record in support of the rezoning in this area, and particularly the appropriateness of the C-2 Zoning and the specific uses that are permitted in the C-2 District.
6. For all these reasons, it is not appropriate to increase the Commercial Zoning in this area of Harbeson Road by rezoning this lot to C-2.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be denied for the reasons and conditions stated in the motion. Motion carried 5-0.

**C/Z 1869 WMF Watercraft and Marine**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a GR General Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.194 acres, more or less.** The property is lying on the southwest side of Oak Orchard Road, approximately 551 feet north of River Road. 911 Address: 32676 Oak Orchard Road, Millsboro. Tax Parcel: 234-34.08-45.00.

The Planning Commission discussed the application which has been deferred since March 28, 2019.

Mr. Mears moved that the Commission recommend approval of Change in Zone 1869 for WMF Watercraft and Marine for a change in zone from GR (General Residential Zoning) to C-3 (Heavy Commercial Zoning) based upon the record made during the public hearing and for the following reasons:

1. C-3 (Heavy Commercial Zoning) is designed to allow auto-oriented retail, and service businesses including boat sales, and service that for local, and regional residents.
2. This site was approved as a Conditional Use for boat displays, sales, and service in 1977, and it has been in that use ever since. The site is across the road from other C-1 properties used for marine sales and it is next to property owned by the Oak Orchard Volunteer Fire Company. This rezoning to C-3 is a reasonable evolution of the 40 + year old Conditional Use, and it is appropriate for this location.
3. The site will be served by central water and Sussex County sewer.
4. The site is in the Environmentally Sensitive Developing Area, and Mixed Residential Area according to the current Sussex County Land Use Plan. This type of Commercial Use is appropriate in these areas according to the Plan.
5. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth. Convenience, order prosperity, and welfare of the County.
6. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons and conditions stated in the motion. Motion carried 5-0.

## PUBLIC HEARINGS

Mr. Robertson described the procedures for public hearings before the Planning and Zoning Commission.

### **2018-33 Overbrook Meadows West – Overbrook Acres, LLC**

An ESDDOZ/cluster subdivision to divide 43.50 acres +/- into 82 single family lots to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County. The property is lying on the northeast side of Coastal Highway (Route 1) opposite of Cave Neck Road. Tax Parcel: 235-23.00-1.00 (portion of). Zoning District. AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were a Site Plan, and exhibit booklet, comments from the State of Delaware Preliminary Land Use Service (“PLUS”), the Technical Advisory Committee (“TAC”), the Sussex Conservation District, Sussex County Engineering Department, Sussex County Engineering Department Utility Planning Division, Office of the State Fire Marshal, numerous Divisions of DNREC, and Delaware Electric Cooperative.

The Commission found that Mr. Jim Fuqua, Attorney with Fuqua, Willard, Stevens, and Schab, Mr. Lou Dibitanto, on behalf of the Applicant, Mr. Steve Gorski, Duffield Associates, and Mr. Joe Calaggero, with the Traffic Group were present on behalf of the application; that Mr. Fuqua stated this is an application for an AR-1 Zoned cluster subdivision; that the Land Use Classification per the 2008 Comprehensive Plan is located in the Environmental Sensitive Developing District Overlay Zone (ESDDOZ); that the proposed subdivision would include 82 single-family lots, and recreational amenities on a parcel of land containing 37.65 acres; that the 37-acres are part of the front portion of 114-acre parcel; that the entire 114 acre parcel was subject to a prior rezoning application, that was seeking CR-1 Zoning; that the Planning & Zoning Commission held a hearing in April 2015 and recommended approval by a 3-2 vote; that the Sussex County Council voted to deny the application; that an appeal was filed and required a new hearing; that after the new hearing, the Sussex County Council voted to deny the application by a 3-2 vote; that the Applicant, having reconsidered it's options for the parcel, has determined to develop the property as two separate residential cluster subdivisions; that the first phase of the development proposed 135 single-family lots at the rear of the property; that the subdivision contained 64.2 acres of the property; that the proposed application was designated as 2018-10 and was presented to the Planning and Zoning Commission on August 9, 2018; that on September 13, 2018, the Planning and Zoning Commission voted unanimously grant Preliminary Approval subject to 17 conditions; that a copy of the decision and minutes was submitted as part of the record; that this is the second phase to the subdivision; that there are a mixture of uses in the area; that the permitted density is 2.178 lots per acre; that the development would be served by central public water for domestic use and that fire protection would be provided by Tidewater Utilities Inc.; that the development would be served by central sewer provided by Artesian Wastewater Management; that electricity would be provided by Delaware Electric Coop; that DelDOT held a discussion with the Applicant regarding the prior commercial use and a TIS was required; that a TIS was prepared by the Traffic Group and a study was undertaken at twelve different intersections; that the parcel is adjacent to Route 1 and is subject to the DelDOT Corridor Capacity Preservation Program; that the primary goal of that program is to maintain road capacity by minimizing the number of direct high volume driveway access points on Route 1; that DelDOT would limit access to this site to uses that would generate 200 vehicles trips per day or less; that DelDOT indicated that, with road improvements vehicle trips could be increased; that the required roadway improvements would be construction of a grade separated interchange at the Route 1 and Cave Neck Road intersection; that DelDOT's current Capital Transportation Program (CTP) for fiscal years 2019 to 2024 includes construction of this grade separated interchange; that the construction is not expected to start until 2024; that as discussed at the public hearing on Subdivision 2018-10, DelDOT indicated that as an alternative to waiting for DelDOT future construction of the interchange; that the Applicant could enter into a Public/Private Partnership with DelDOT to participate in the cost of the interchange and that would enable earlier construction; that Subdivision 2018-10 had this as one of the conditions of approval required by the Planning and Zoning Commission and it was Condition E; that Condition E stated that the development shall comply with all DelDOT entrances and roadway improvements requirements including contributions to the cost of the Route 1 and Cave Neck Road grade separation interchange; that they are proposing the same condition to be placed on this application; that the Applicant has been working with DelDOT over the past year to finalize a memorandum understanding detailing the terms of the Public/Private Partnership and those terms include the

Applicant's financial contribution to a portion of the cost of the interchange, the Applicant's land contribution or Right-of-Way expansion on Route 1 and interchange infrastructure location along Route 1; that the contribution would involve 6-acres of land and a temporary access to the subdivisions until completion of the interchange at which time the temporary access would be removed; that memorandum has been agreed to in principle and is currently being reviewed by DelDOT's legal staff; that the traffic impact of this development has been reviewed and discussed with DelDOT for over five years; that the proposed Conditions of approval for this Subdivision would be the same as those imposed on Subdivision 2018-10 requiring compliance with the DelDOT entrance roadway improvements including the significant contributions by the applicant; that there is a need for interchange for safety and to increase to traffic capacity and it would enable construction to begin in a near term future, rather than some future date after 2024; that a wetland delineation was preformed by Environmental Resources Inc; that the review did determine there where on State tidal wetlands or Federal non-tidal wetlands existing on the 37-acre parcel; that none of the site is located in the 100 year floodplain; that stormwater management facilities would be design and constructed in accordance with current DNREC regulations and would be subject to review and approval by the Sussex Conservation District; that the stormwater facilities would utilize stormwater Best Management Practices; that the entire site is currently used for farming with no stormwater management; that there are no known historical or cultural resources located on the site nor any threatened or endangered species associated with the property; that the site is located in the Cape Henlopen School District; that fire protection services would be provided by the Lewes Fire Department; that the minimum lot size is 7,500 square feet and the average lot size is 8,800 square feet; that subdivision is planned to be built in two or three phases; that the recreational component would include a clubhouse with a minimum floorspace of 1,500 square feet, outdoor pool and deck and it is proposed that the recreational amenities would be built prior to the issuance of the 41<sup>st</sup> Certificate of Occupancy; that the subdivision streets would be built at least to County standards and potentially to DelDOT standards; that the new road to Cave Neck Road would be built to DelDOT specifications and would be a public road maintained by DelDOT; that the road would allow for interconnectivity with the parcels on either side of the road (north and south); that the new Cave Neck Road would be the main entrance to the development; that it would provide north and south access to Route 1 by way of the interchange of both of the subdivisions; that both subdivisions would have a right-in and right-out access off of Chappell Road which is shown on the now approved 2018-10 Preliminary Subdivision Plan; that streets would have curbs and gutters; that there would be sidewalks on both sides of the streets and street lighting; that at the north and top of the site would be 50-foot Agricultural Preservation buffer and within that buffer there would be a 20-foot landscaped buffer; that the entrance roadway which is called Chappell Road is located between the Agricultural buffer and all lot lines in the proposed subdivision and it would result in no lot lines being closer than 200-feet from the boundary line; that the deeds would include the Agricultural Preservation District notice disclosing that agricultural activities are present in the vicinity and this would protect adjoining agricultural lands from complaints of nuisance related to normal agricultural uses and activities; that the eastern side of the site contains an open space area of approximately 100-feet and it borders Subdivision 2018-10 approved open space; that on the southern side would be a 30-foot forested landscaped buffer except along Lot 62 where there is an additional landscape buffer and a continuation of a cross-access easement; that deeds to all lots in the proposed subdivision would also include the



agricultural use note that is required by the Subdivision Ordinance and the language is almost identical to the Agricultural Preservation District notice; that the total open space in the 37-acres proposed subdivision is approximately 11.36-acres which is over 30% of the site; that the community would have a Homeowner's Association comprised of all lot owners; that the HOA would be responsible for collecting assessments, enforcing restrictions, covenants, maintaining the development entrances, recreational areas, buffers, stormwater facilities, other common areas, and the roadways if the roads are built to County standards; that proposed conditions and findings of facts were submitted into the record, with similar conditions to application 2018-10. In conclusion, Mr. Fuqua noted that there are two separate subdivisions and only the front part of being proposed in the current application; that the development that is located closer to Route 1 is going to be more affordably priced and the one previously approved to the rear, which is going to be more exclusively priced; and that the proposed subdivision would be providing options for interconnectivity.

The Commission found that Ms. Jennifer Cinelli-Miller and Mr. Marc Cote, both with DelDOT were present. Ms. Stevenson asked for an explanation as to DelDOT's plans for highway improvements. Mr. Cote stated DelDOT originally said, through PLUS that the limit was 200 trips for the parcel and has since worked with the Applicant to further discuss potential implementation and phasing; that the number is now likely to be higher; that DelDOT could now allow temporary access for more than 20 units; that the 200-unit number is derived from the DelDOT Corridor Capacity Preservation Program and the State Spending Strategy classification for the site (Level 3); that under the latest agreement, the Applicant is not allowed to build everything that is proposed; that DelDOT would work with the Applicant as part of their phasing; that

Ms. Cinelli-Miller explained that DelDOT's discussions have focused on whether there are alternative means to access the site during construction and whether the previously discussed 200-trip limit was tantamount to denying access to the site. DelDOT's current position is to negotiate a revised phasing of the site, with a total number of trips in excess of the previous 200-trip limit, in order to avoid a scenario where DelDOT may potentially be forced to purchase the site, which would delay the planned Grade Separated Interchange. The current approach is to negotiate with the developers who are then contributing to the project, in order to move the whole project along a little faster; that the developer has left more of the frontage of the property open than originally planned for in the previous application as DelDOT may require more frontage than originally indicated; that Mr. Cote stated the developer has left 400-feet open for options.

Mr. Robertson asked for further clarification as to why the 200-trip limit had been changed. Mr. Cote explained that DelDOT was seeking to avoid having to enter into an arrangement where financial contributions would be required to access/rent the land in question. Mr. Fuqua explained that the original condition allowed for the applicant to enter into negotiations with DelDOT.

Ms. Cinelli-Miller explained that DelDOT has started the design at the beginning of this fiscal year, back in July 2018 and have completed all the survey work; that they are now working on the survey plans and developing conceptual alternatives; that the plans now have to go through the

National Environmental Policy Acts (NEPA) process; that requires the development of a package of different alternatives, alignments, configurations, ramps, and will look at all of that and present it to the public towards the end of the current year; that once that process is done, they would move into the final design process once the alternative is selected; that as DelDOT looks at how many units that are going to be proposed to be built, DelDOT would make sure the entrances are sized appropriately with deceleration lanes and acceleration lanes depending on how many there are; that a temporary entrance is being built by the Developer and it is not costing the taxpayers any money; and that the temporary entrances need to meet the standards and that they are safe.

Chairman Wheatley clarified that, in relation to the three options available to the Applicant for implementation of the Grade Separated Interchange project, there appears to be some perception that the 200-trip limit was the upper limit that DelDOT had imposed. Mr. Fuqua explained that there are a lot of moving parts associated with the negotiations with DelDOT, and the 200-trip limit was the basis for the original discussions, but that this number has changed as discussions/negotiations have progressed.

The Commission found that no one spoke in favor of the application.

The Commission found that Mr. Jeff Stone spoke in opposition to the application that he is not personally in favor of or in opposition to the application; that Mr. Stone stated he is active with the Sussex Alliance Responsible Growth (“SARG”) and that he is speaking on behalf of this group; that SARG recognizes that the developer has the right to put 236 homes in two subdivisions on the property; that it should only happen in a manner that does not jeopardize the safety of the user of Route 1, Cave Neck Road, and the surrounding communities; that is thousands of people daily, tens of thousands weekly; that over the past several years, as proposals for the development of this property had evolved, one of the main concern raised by residents has been traffic; most notably its impact on safety and the quality of life; that the numbers presented are constantly changing making it impossible to understand exactly what is being approved; that when the Overbrook Meadows (2018-10) was presented to the PLUS Committee, DelDOT stated it would be subject to the Corridor Capacity Preservation Program (CCPP); that was repeated in May 2018 for Overbrook Meadows West subdivision; that according to DelDOT’s formal response for both in the PLUS comments; that the *“Per Program policy would only permit to the site on Delaware Route 1 for a proposed land uses that generate 200 vehicle trips per day according to the Institute of Transportation Engineers’ (ITE) Trip Generation Manual; that however, larger parcels can be developed if the necessary improvements are constructed; that in this case construction of a grade-separated interchange at Cave Neck Road and Delaware Route 1 would be required for development beyond the first 200 vehicle trips per day; that the site access would be granted to Delaware Route 1 via the grade-separated intersection and ramps and service roads associated therewith.”*; that the Planning and Zoning Commission minutes of September 13, 2018 meeting considering the Overbrook Meadows subdivision reflect that *“Mr. Fuqua, stated...that the site is subject to DelDOT Corridor Capacity Preservation Program; that this program limits access to 200 trips per day and less with road improvements; that the roadway improvement is the construction of grade-separated intersection proposal to provide access and planned by DelDOT...”* Despite the fact that the developer publicly acknowledged this restriction, no traffic

conditions are included in the Commissions conditions for approval of the subdivision; that now everyone, the community, PLUS reviewers, the developer, the Planning and Zoning Commission, are now on the same page as DelDOT; that Route 1 at the intersection of Cave Neck Road is at capacity and cannot absorb the approximately 2,400 vehicle trips per day these developments would generate and the only solution is an overpass; that until then, only 20 units generating 200 trips per day could be built; that this applies to both Overbrook Meadows and Overbrook Meadows West; that when constructing the overpass increases capacity, then full development generating approximately 2,400 trips can be done; that this is the only information provided to the public; that now DelDOT says that 175 units, roughly 75% of the 236 total for both subdivisions, may be constructed prior to or during the construction of the overpass, utilizing the temporary right in/right out onto Route 1; that this is more units than are permitted in the Overbrook Meadows development that has received Preliminary Site Plan approval; that DelDOT is giving the Developers permission to have more units access Route 1 through a temporary entrance than the County has approved; that suddenly Route 1 now has the capacity to absorb 1,500 more trips per day, almost nine (9) times more than the original 200. Since these trips must all go north, many are going to result in U-turns across Route 1's median when departing and returning, creating more dangerous traffic movements; that questions were asked as to whether the County has been involved in discussions regarding the additional trips, that no increase in capacity should happen until the ribbon is cut and the overpass actually opens; that the multi-year construction of the overpass will likely result in reduced capacity; that to permit such a large trip increase prior to any capacity increase seems to be creating a dangerous public safety situation; that long standing agreements between DelDOT and the County that provide for coordination regarding rezoning and site plans are desirable; that yet this doesn't seem to be happening; that DelDOT's interest and the County's do not always align; that the Planning and Zoning Commission and County Council not only have legal right to set the terms and conditions under which the development will take place, they have the responsibility to exercise that authority for the betterment of the Community; that even DelDOT Director of Planning, Drew Boyce, acknowledged this fact on the record at a recent County Council meeting; that to paraphrase, Mr. Boyce, the final say on the Land Use is solely the County's; that, according to the Delaware Supreme Court, DelDOT's role is to advise, not to decide; that deciding is the role and responsibility of the County; that the other two Counties' in the State long ago accepted this responsibility; that he is hopeful that the Commission will carefully review the impacts of this proposed subdivision on the safety and quality of life of the citizens of and visitors to Sussex County; that should the County choose to approve this application, he would hope that the approval would come with clearly stated terms and conditions and timelines that will preserve the safety and quality of life of the residents.

At the conclusion of the public hearings, the Commission discussed this application.

The Commission held a discussion regarding Subdivision 2018-33 Overbrook Meadows West; that Ms. Stevenson had concerns with the overpass or a safe way for the traffic to enter and exit the highway.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

**C/U 2167 Karen Ann Mueller**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for open outdoor sales (yard sale) to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.073 acres, more or less.** The property is lying on the southwest corner of Eagle Lane and John J. Williams Highway (Route 24), approximately 914 feet northeast of Indian Mission Road. (Route 5). 911 Address: 31977 Eagle Lane, Millsboro. Tax Parcel: 234-23.00-10.00.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, Site Plan, comments from the Sussex Conservation District, the results from DelDOT Service Level Evaluation request confirming that a Traffic Impact Study ("TIS") was not required. One letter was received in opposition to the application was read by Ms. Cornwell into the record.

Chairman Wheatly asked for clarification for the proposed use, as whether the use was for the sale of personal items or non-personal items.

The Commission found that Mr. John Roach, with John B. Roach Engineering, Mr. Stephen Mueller, the Applicant and Ms. Karen Mueller, the property owner, were present on behalf of the application; that Mr. Mueller stated the neighbor has become disgruntled with the use; that there are no nails on the road; that most of the complaints are about the patrons parking on Route 24; that the outdoor sales consist of retail-store liquidation items; that the driveway is always open and never is blocked; that Mr. Mueller is the only one selling the items; that the 18 parking spaces are available and is this is enough parking for the site; that Ms. Mueller stated the outdoor sales start Friday and end on Sunday; that Mr. Mueller stated the sales would occur depending on the weather; that there are two tractor trailers on the site to store the items; that the only reason a bobcat is on the site now, is to create a parking lot; that he would like to have an outdoor sales once a month, every other week; that the driveway to the adjoining property is never blocked; that Mr. Mueller stated that outdoor sales could be held twice a month; that no bathrooms are provided; that Ms. Mueller stated that no one maintains the driveway; that DelDOT had put down millings; that the maintenance of the driveway is intended to be split between the two residents; that there is no written agreement; that Mr. Roach stated the display area is 3,600 square feet with parking between the display and the road; that the parking was based on 200 square feet; that Mr. Mueller stated there are approximately 15 cars at a time, and that this is typically the maximum; that Mrs. Mueller stated there is extra land for overflow parking; that Mr. Roach stated that the Applicant would have to get DelDOT and other agency approvals such as the Office of the State Fire Marshall; that Mr. Mueller stated he does have a business license; that there would be no employees; that the hours of operation would occur from sun up to sun down; that he would like to have a sign; that he does not live on the property; that he stores all the items in two tractor trailers on the property; that there is lighting only around the house; and that Mr. Roach stated that Eagle Lane is a shared access for the two parcels.

The Commission found that no one spoke in favor of the application.

The Commission found that Mr. Jeffrey Ott, spoke in opposition to the application; that Mr. Ott stated he is the President of the HOA for The Pines at Long Neck; that he is speaking on behalf of himself and the entire HOA; that there have been numerous accidents; that he has concerns with the safety of the yard sale patrons, motor vehicles, pedestrians, and bike path users; that the vehicles parked on both sides of Route 24 and sometimes for quite an extensive distance down the road; that the speed limit is 50 mph; that this parking results in congestion and reduced property values, that items are sold out of tractor trailers which is unsightly; that items are left out on the lawn overnight and sometimes for days; that it may be possible there are wetlands in the area where the applicant is clearing out for the vehicles to park; that it always flood out in that area; that there is normal concern with traffic without having the yard sales; that it is difficult for the residents to get out of the development; and that he has concerns with property values; that there are better locations for this use.

Mr. Robertson asked about whether the dwelling on the site is occupied. Mr. Stephen Mueller stated that no one permanently lives on the site; that he only lives there when he has yard sales; that it takes three days to set the items up and one day to take the items down; that the trailers are located behind the residence; that proposed structure for the yard sale items would be an unenclosed structure; and that the items would sit on top of eight foldable tables and on top of the grass; that the applicant has attempted to put cones on the highway to prevent on-street parking, but this is not lawful, that he has even requested a State Police presence to prevent customers parking on Route 24.

The Commission found that Ms. Susan Ash stated she is not favor of or in opposition to the application; that Ms. Ash stated are the cars just parking on Route 24 or coming into the lane to park on the property, and that issue is that vehicles are parking on Route 24.

The Commission found that Mr. Marc Cote, Assistant Director (Planning) with DelDOT was present to answer questions from the Commission; that Mr. Cote stated that DelDOT would like the Applicant to continue with the proposed plan and that the proposed plan also should include 'no parking' signs on Route 24 to make sure that customers are not parking on Route 24.

At the conclusion of the public hearing, the Commission discussed this application.

The Commission held a discussion regarding Conditional Use 2167 Karen Ann Mueller; that there was a discussion on the use and parking; and that Mr. Robertson would look into who owns the road.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to defer action for further consideration. Motion carried 5-0.

**C/U 2168 Michael S. Mears**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for Amendments to Conditions of Approval of C/U 1645 (Ordinance No. 1843) to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing**

**1.0 acre, more or less.** The property is lying on the north side of Paradise Road, approximately 0.26 miles west of Governor Stockley Road. 911 Address: 22159 Paradise Road, Georgetown. Tax Parcel: 133-10.00-10.16.

Ms. Cornwell advised the Commission that submitted into the record is a staff analysis, Site Plan, comments from the Sussex Conservation District, the results from DelDOT Service Level Evaluation request confirming that a Traffic Impact Study (“TIS”) was not required. Ms. Cornwell stated this is to amend the number of employees and the number of vehicles to be permitted on the property as part of the Conditional Use.

The Commission found that Mr. Michael Mears was present on behalf of his application; that Mr. Mears submitted letters in support from neighbors and photographs; that Mr. Mears stated he would like to add more employees and more vehicles; that the business has grown since 2004; that he currently has seven employees; that the original condition of approval was to have two employees and a limited number of vehicles; that the applicant is looking for up to seven employees and increase the number of vehicles on the site; that the applicant has made the driveway larger and has added a fence where the trees use to be; that the applicant operates a plumbing business with two to seven non-relative employees and seven vehicles; that two of the employees do take their work vehicles home; that there would be three vehicles at night time; that there would be seven employee cars during the day; that the applicant would like more employees; that the property could accommodate at least 10 vehicles; that the applicant has a mini excavator and a skid loader; that both are transported on trailers; that the applicant would need 10 vehicles and four trailers; and that there would be no customers on the site.

The Commission found that Mr. Carl Smith spoke in favor of the application; that Mr. Smith stated he has never has had an issue with Mr. Mears; that he has no objection to the business and that Mr. Mears runs a good clean operation.

The Commission found that no one spoke in opposition to the application.

At the conclusion of the public hearing, the Commission discussed this application.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved to amend Condition 1 to state that there shall be no more than 14 business vehicles or trailers parked at any one time and to amend Condition 7 state that there shall be no more than 14 non-relative employees for the reasons and stipulations stated in the motion. Motion carried 4-1.

Mr. Robertson recused himself for the next hearing.

**C/Z 1875 L.W. & J.T. Mitchell Family, L.P.**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.317 acres, more or less.** The property is lying on the southeast side of Kings Highway, approximately

0.3 miles northeast of Gills Neck Road. 911 Address: N/A Tax Parcel: 335-8.00-37.00 (portion of).

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, an exhibit booklet, survey, comments from Sussex Conservation District, and the results from DelDOT Service Level Evaluation request confirming that a Traffic Impact Study (“TIS”) was not required. Three letters were received in opposition of the application were submitted into the record.

The Commission found Mr. David Hutt, Attorney with Morris, James, Wilson, Halbrook and Bayard, LLP, Jeff Hamer - Principal, Bob Mitchell and Jerry Mitchell, owners, and Ring Lardner with Davis, Bowen, & Friedel were present on behalf of the application; that Mr. Hutt stated the property is located in the area behind Big Oyster Brewery, Lane Builders, and First Baptist Church; that project is not the entire Mitchell farm property; that the property was farmed up until 2019; that the farming operation has stopped and there has been a for sale sign on the property for many years; that 5.0 acres went to the Moorings for an Assisted Living Facility; that Big Oyster Brewery was looking to expand its site to add more parking and storage; that Big Oyster Brewery has arrangements with people across to be able to have off-site parking and they have to cross Kings Highway; that the site is not in a floodplain; that there are no wetlands in the site; that there are no known historic or cultural features on the site; that the property is located in the State Spending Strategies Level 1; that the applicant is looking to expand their existing business; that the property is located within the Lewes Fire District; that the property is located within the Cape Henlopen School District; that the Land Use Classification per the 2008 Comprehensive Plan is located in the Environmentally Sensitive Developing Area and according to the 2018 Comprehensive Plan is located in the Coastal Area; that the property is located behind property that is zoned C-1; that across the street is C-1 zoned land; that there is B-1 zoning nearby, Conditional Uses, and many businesses uses in the City of Lewes; that the C-3 zoning classification because it is most closely resembles the front portion of the property that is zoned C-1; that the setbacks are the same; that the parcel would meet the minimum 1-acre lot size for C-3 zoning; that if the rezoning were to be approved, a lot line adjustment would occur between the farm the Big Oyster Brewery; that there is access to public utilities for the site; that the current property is served by the Lewes Board of Public Works for sewer and water; that the C-3 zoning has fewer permitted uses than C-1 (General Commercial) zoning would allow for; that Kings Highway is a busy well-traveled road and that Route 9 is a major arterial road; that Mr. Lardner stated that U.S Route 9 is a major arterial road per County Code; that Mr. Hutt stated the City of Lewes would like to see a master plan for this site; that it would be an ideal if the Master plan could occur for this site; that the need for the Change of Zone is for the expansion for this business; that the area already has numerous business use along the road; that there is an opportunity for future interconnectivity behind Lane Builders; that the site is located in a designated growth area; that the Cape Henlopen Medical Office is beginning its construction of the offices and the Mitchell family is putting in its entrance; that Mr. Lardner stated the Conditional Use for Lot 1 is for the Cape Henlopen Office Building and the supporting infrastructure is located on the Mitchell property which is providing the access from Gills Neck Road further away from Kings Highway; that the internal road which will serve the Cape Henlopen Building and the road could potentially serve the residual land; and that a road would be put in and built to Sussex County standards.

The Commission found that Ms. Jennifer Cinelli-Miller spoke in favor of the application; and that

Ms. Cinelli-Miller suggested the Applicant meet with DelDOT in regard to the Lewes Scenic By-Ways implications of the project.

The Commission found that Ms. Patti Stewart and Mr. Jay Tomlinson spoke in opposition to the application; that Ms. Stewart stated she would like clarification; that she wasn't sure what the Applicant is proposing to do with the site; that is a parking lot being put in; that Mr. Jay Tomlinson stated there were two PLUS documents submitted; that one was for 20-acres for three additional, two-story office buildings, and additional two office buildings on Gills Neck Road for a Change of Zone from AR-1 to C-4; that the second PLUS document was from a Change in Zone from AR-1 to MR for homes; that the third PLUS document was for all 49-acres and reflected the six office buildings and was increased to 208 plus residential units for the remaining parcel; that he has a concern that there is a plan for this area; and that he has concerns with traffic and density.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

#### **Ord 19-6**

#### **AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE IV, SECTION 115-25 OF THE CODE OF SUSSEX COUNTY REGARDING CLUSTER SUBDIVISIONS.**

Ms. Cornwell explained the background to the proposed Ordinance; that Ms. Cornwell stated the Zoning and Subdivision Code currently has two paths that an applicant can take for a cluster subdivision; that the first one is a standard cluster subdivision and the second one is a superior design criteria which is currently voluntary; that a standard subdivision would have to have certain amount of open space, setbacks, and preservation of other features of a site; that the proposed Ordinance would change this from being a voluntary process; that it would be a mandatory criteria for all new subdivision applications.

Mr. Robertson stated that the current Cluster Subdivision Ordinance was adopted in the early 2000's and it was required by the Comprehensive Plan in force at the time; that it effectively shrunk the size of the lots in exchange for a subdivision having a certain amount of continuous open space, with the result being a better design than would ordinarily result from a standard three-quarter-acre per lot subdivision or 20,000 square foot lot subdivision; that the Code stated a superior design is needed but did not give any criteria as to what superior design meant; that there were not any standards on what it meant to be superior; that Ordinance No. 2024 tried to introduce a design process where a developer starts with a usable open space, whether it be trees, next to a park, or next to water; and then design around the open space with a good design and not start with how many lots you could get; that the proposed Ordinance went through the Planning and Zoning Commission with it being a requirement that you had to submit the yield plan, it had to design with specific superiority requirements; that the proposed Ordinance went before the County Council who, following discussion, voted to make it optional which made two paths and kept it essentially the way the Ordinance was; that County Council also kept the requirement of the yield plan with the superior design requirements as an option; that the option would allow for expedited application processing, which was a valuable incentive at the time because there was a two-year waiting list for applications to reach the Planning & Zoning Commission; that ultimately there



were no applications submitted under the optional route under superior design subdivision; that what the Ordinance does, is take the Code back to what exactly what Planning and Zoning Commission approved in November 2008; that all cluster subdivisions would have to meet the requirements; and that if it is a standard subdivision, it will take the normal course.

Mr. Wheatley noted that, what is currently before the Commission, is essentially the same as what was recommended for approval 11 years ago.

The Commission found that Mr. Rich Borrasso, with Sussex Alliance for the Responsible Growth (SARG), was present; that SARG are neither in favor of or in opposition to the proposed Ordinance; that Mr. Borrasso talked about the overview survey that was sent out about the proposed Ordinance; that of the 292 responses 272 agreed that the design criteria should be made mandatory; that 204 comments had been received as to why they agree, and those comments have been printed and submitted for the record. 82 comments were received as to why participants disagreed with the Ordinance. Mr. Borrasso displayed a map showing where participants lived within the County and outlined that the survey will continue to be open to participants up until the date of the County Council meeting.

Mr. Robertson clarified the difference between an AR-1 Cluster Subdivision and an ESDDOZ Cluster Subdivision, and that these are covered separately within the Code.

The Commission found that Ms. Michelle Schmidt, with Delaware Center for Inland Bays, Ms. Jeanette Alchter spoke in favor to the proposed Ordinance; that Ms. Schmidt that since 1994 the Inland Bays have worked in partnership with the County, State of Delaware, municipalities, businesses, and Universities; with the aim of implementing a Comprehensive Conservation and Management Plan to protect and restore the water bodies that are so important to Sussex County \$7 Billion Coastal Economy; that the plan to which to the County is signatory lays out the action necessary to improve water quality in the bays and to project the important natural habitats; that the proposed Ordinance would make implementing the superior design criteria currently contain in Ordinance No. 2024 mandatory for new cluster subdivisions; that this change would provide for important Environmental protection and is consist with the coordinated land and water use decisions focus area of the Inland Bays Comprehensive Conservation Management Plan; that therefore it encourages it's adoption; that this proposed Ordinance would help protect the ecology sensitive wetlands and waterways such of those of the Inland Bays by clustering homes on the Environmentally suitable portions of the track in areas that have the least impact on natural features such as wetlands, mature woodlands, and waterways; that additionally this proposed Ordinance encourages the creation of open space which is critical for providing both outdoor recreation opportunities and sanctuary for wildlife and other wise develop areas; that development in the Inland Bays watershed and Sussex County as a whole has been accruing at a rapid pace because of the servants has caused an rapid development of wetlands and beneficial functions in the Inland Bays watershed have decline greatly over time and in over all in poor condition; that the rapid increase in development effects not only salt marshes, but also replaces farmland and open natural areas jeopardizing the health of wetlands and waterways; that also with the flooding issues that have been seen recently; that by requiring new cluster subdivisions to implement the superior design criteria such as open space, requiring a setback around wetlands, implementing better stormwater management techniques and maintaining scenic views can help elevate from the growing pains the County is experiencing from such rapid growth; that will simultaneously

providing many benefits to those who call this County home; that a copy of the letter was also submitted into the record; that Ms. Alchter stated she does agree with all the comments there were previously heard in favor of the Ordinance; that the proposed Ordinance would give Planning and Zoning a good tool to apply reasoned guidance in land use decisions for the benefit of all; and that this Ordinance would provide muscle to guide development towards superior design and preserve open space.

The Commission found that Mr. Jim Eriksen spoke in opposition to the proposed Ordinance; that Mr. Eriksen stated that the proposed Ordinance does present issues; that it is entirely subjective, and although it gives consideration to certain criteria; that the term superior design implies subjectivity; that most of the subdivisions do provide amenities; that he is aware of subdivisions have won national design awards, that this is a competitive market where communities that do lack the amenities and other extras would result in having marketing and sales difficulty when they go to sell the lots; that clubhouses, pools, walking trails, gyms, athletic courts, active open space and parks are things that are in most communities that are brought before the Planning and Zoning Commission; that in many ways the market dictates that superior design is somewhat required; that there are many developments that are considered to be superior design; that there are two superior developments in Sussex County; that when there is less density in a community it is more difficult to provide exceptional amenities because it would add to the cost of the project and well as increase HOA fees; and that the reduced density would increase sprawl, increase in traffic, increase costly infrastructure projects, and pollution; that the Ordinance dictates the flow of the plan and it is not good for design; that there is a requirement of 25-foot setback from non-tidal wetlands that does not currently apply in all cases; that there is a working group currently working on looking at buffers from wetlands.

Mr. Robertson clarified that the working group is currently looking at a number of matters within the Subdivision Code, and that it is possible that multiple parts of the Code could be revisited in the future. This remains a separate matter to the current Ordinance.

At the conclusion of the public hearings, the Commission discussed this application.

The Commission held a discussion regarding Ordinance 19-6; that the Ordinance would do what the Planning and Zoning Commission had been trying to do; and that this would be a positive change.

Motion by Ms. Stevenson, seconded by Mr. Mears and carried unanimously to forward this Ordinance to the Sussex County Council with a recommendation that the Ordinance be approved for the reasons stated in the motion. Motion carried 5-0.

## OTHER BUSINESS

### **2017-19 Headwater Cove**

#### **Final Subdivision Plan**

Ms. DeVore advised the Commission that this is a Final Subdivision plan for the subdivision of an 81.99-acre parcel of land into 163 single-family lots using the cluster development option and accessed from Dorman Road (Sussex County Road 288A). The Preliminary Subdivision plan was approved by the Planning and Zoning Commission on April 26, 2018. The Final Subdivision Plan

complies with the Zoning and Subdivision Code. Additionally, the plan complies with all Conditions of Approval. Tax Parcels: 234-11.00-58.00, 66.00 and 66.01. Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the Final Subdivision Plan. Motion carried 5-0.

### **2018-5 Lot 10 Meadow View**

#### **Final Subdivision Plan**

Ms. DeVore advised the Commission that this is a Final Subdivision Plan for the creation of two (2) single family lots and related improvements. Preliminary Subdivision Plan approval was granted by the Planning Commission at its meeting of June 14, 2018. The property is located west of Camp Road (Sussex County Road 532). The Final Subdivision Plan is in compliance with the Sussex County Zoning and Subdivision code and all conditions of approval. Tax Parcel: 331-2.00-18.13. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to approve the Final Subdivision Plan. Motion carried 5-0.

### **S-18-81 Stafford Street Capital**

#### **Preliminary Site Plan**

Ms. DeVore advised the Commission that this is a Preliminary Site Plan for a 41-unit multi-family development located on a 6.86 ac parcel off of Shady Road (Sussex County Road 276), for a density of 5.98 DU/AC. The site plan shows the 41 units split into 9 separate buildings with a total of 82 spaces provided including the garages. The Preliminary Site Plan complies with the Zoning Code. Zoning: MR (Medium Residential Zoning District). Tax Parcels: 334-6.00-511.00 & 512.00. Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Preliminary Site Plan with final by staff subject to receipt of all agency approvals. Motion carried 5-0.

### **Lands of Anderson**

#### **Minor Subdivision off a 30' easement**

Mr. Whitehouse advised the Commission that this is a minor subdivision off of a 30' easement over an existing entrance to create three (3) lots, Lot 1 measuring 6.009 acres +/-, Lot 2 measuring 6.000 acres +/-, with the Residual lot measuring 8.001 acres +/- located off of Gravel Hill Road (Sussex County Road 248). Zoning: AR-1 (Agricultural Residential Zoning District). Tax Parcel: 234-21.00-26.01. Staff is in receipt of all agency approvals.

The Commission held a discussion regarding the 30-foot easement; that Ms. Cornwell stated that the new regulations in Chapter 99 states there is no minimum Right-of-Way for roads; that there is no minimum 50-foot requirement in the Code; that the staff tries to encourage the applicants to have something larger than 30-feet Right-of-Way for the easement; that the final approval is approved by the Planning and Zoning Commission; and that a maintenance agreement note for the easement is required on the Final Site Plan.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the Minor Subdivision and Final Subdivision off a 30' easement. Motion carried 5-0.

**Lands of Hearn**

Minor Subdivision off a 50' easement

Mr. Whitehouse advised the Commission that this is a minor subdivision off of a 50' easement over an existing driveway to create one (1) lot, measuring 1.6551 acres +/- with a residual parcel measuring 1.7193 acres +/- located off of Delmar Road (Route 54). Zoning: AR-1 (Agricultural Residential Zoning District). Tax Parcel: 532-20.00-26.00. Staff is in receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the Minor Subdivision and Final Subdivision off a 50' easement. Motion carried 5-0.

**Land of Carey**

Minor Subdivision off a 50' easement

Mr. Whitehouse advised the Commission that this is a minor subdivision off of a 50' easement over an existing access road to create one (1) lot, measuring 1.00 acre +/- with a residual parcel measuring 29.99 acres +/- which is to remain in agricultural preservation and be further subdivided into three (3) additional tracts measuring 14.5 acres, 14.5 acres, and 1.00 acres +/- located on the east side of Clendaniel Pond Road. The Agricultural Preservation Foundation has given preliminary approval of this subdivision with the understanding that it will not be recorded without the Planning and Zoning Office first receiving a Letter of No Objection from the Ag Preservation Foundation. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 230-13.00-99.00. Staff are awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried unanimously to approve the Minor Subdivision off a 50' easement with final approval by staff subject to receipt of all agency approvals. Motion carried 5-0.

**Lands of William G. Callaway**

Minor Subdivision off a 50' easement

Mr. Whitehouse advised the Commission that this is a minor subdivision for the subdivision of 154.00 acres into 1 lot of 2.26 +/- acres with a residual parcel of 151.4 acres and located off of a proposed 50-foot ingress/access easement off of Callaway Road (Sussex County Road 558). Tax Parcel: 531-2.00-10.00. Zoning District: AR-1 (Agricultural Residential District). Staff is awaiting all agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision off a 50' easement with final by staff subject to receipt of all agency approvals. Motion carried 5-0.

Meeting adjourned at 9:56 p.m.